

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>RONALD ANDREW SCOTT, JR.,</b>	<b>:</b>	
<b>Petitioner</b>	<b>:</b>	<b>CIVIL ACTION NO. 3:19-0500</b>
<b>v.</b>	<b>:</b>	<b>(JUDGE MANNION)</b>
<b>JAMEY LUTHER, et al.,</b>	<b>:</b>	
<b>Respondents</b>	<b>:</b>	

**MEMORANDUM**

Pending before the court is the report of Judge Arbuckle, (Doc. 14), which recommends that the petitioner's petition for writ of habeas corpus under [28 U.S.C. §2254](#), challenging his April 2, 2015 judgment of conviction in Lancaster County Court of Common Pleas, (Doc. 1), be dismissed without prejudice pursuant to his completed *Miller/Mason* Notice of Election indicating that he chooses to "withdraw the petition so that [he] may file one all-inclusive petition under §2254." (Doc. 13). See [United States v. Miller, 197 F.3d 644 \(3d Cir. 1999\)](#); [Mason v. Meyers, 208 F.3d 414 \(3d Cir. 2000\)](#). The petitioner has not filed any objections to Judge Arbuckle's report. The time within which to file objections has expired.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." [Fed.R.Civ.P. 72\(b\)](#), advisory committee notes; see *also* [Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 \(2010\)](#) (citing [Henderson v.](#)

[Carlson, 812 F.2d 874, 878 \(3d Cir. 1987\)](#) (explaining judges should give some review to every Report and Recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept or modify, in whole or in part, the findings or recommendations made by the magistrate judge. [28 U.S.C. §636\(b\)\(1\)](#); Local Rule 72.31. Upon review, the report and recommendation of Judge Arbuckle will be adopted.

The court has reviewed the reasons presented by Judge Arbuckle for recommending that the petitioner's habeas petition be dismissed without prejudice. Because the court agrees with the sound reasoning that led Judge Arbuckle to the conclusions in his report and finds no clear error on the face of the record, the court will adopt the report. An appropriate order shall issue.<sup>1</sup>

s/ *Malachy E. Mannion*  
**MALACHY E. MANNION**  
United States District Judge

**Date: November 14, 2019**

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<sup>1</sup>The court notes that since petitioner is challenging his conviction and sentence imposed in the Lancaster County Court, when he files his all-inclusive habeas petition it should be filed with the United States District Court for the Eastern District of Pennsylvania. See 28 U.S.C. §2241(d).